

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BOARD OF TRUSTEES OF THE AFTRA
RETIREMENT FUND, in its capacity as a
fiduciary of the AFTRA Retirement Fund,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,

Defendant.

BOARD OF TRUSTEES OF THE IMPERIAL
COUNTY EMPLOYEES' RETIREMENT
SYSTEM, in its capacity as a fiduciary of the
Imperial County Employees' Retirement
System, individually and on behalf of all others
similarly situated,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,

Defendant.

THE INVESTMENT COMMITTEE OF THE
MANHATTAN AND BRONX SURFACE
TRANSIT OPERATING AUTHORITY
PENSION PLAN, in its capacity as a fiduciary
of the MaBSTOA Pension Plan, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,

Defendant.

Consolidated as
Civil Action No. 09-00686 (SAS) (DF)

ECF Case

**DECLARATION OF PETER H. LEVAN, JR., IN SUPPORT OF PLAINTIFFS'
MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT'S
MOTION *IN LIMINE* TO EXCLUDE CERTAIN EXPERT TESTIMONY
OF BERNARD BLACK, FIACHRA O'DRISCOLL, AND DANIEL NIGRO**

PETER H. LEVAN, JR. declares under the penalty of perjury pursuant to 28 U.S.C. § 1476:

1. I am a partner with the law firm of Kessler Topaz Meltzer & Check, LLP, lead class counsel for plaintiffs in this action. I respectfully submit this declaration in support of Plaintiffs' Memorandum of Law in Opposition to Defendant's Motion *In Limine* to Exclude Certain Expert Testimony of Bernard Black, Fiachra O'Driscoll, and Daniel Nigro ("Plaintiffs' Opposition Memorandum").

2. The purpose of this declaration is to submit and identify for the Court true and correct copies of certain record evidence that is referenced in Plaintiffs' Opposition Memorandum to be filed on October 11, 2011.

3. Attached as Exhibit A is a true and correct copy of excerpts from the deposition transcript of Bernard Black dated December 3, 2010.

4. Attached as Exhibit B is a true and correct copy of excerpts from the deposition transcript of Patricia W. Chadwick dated December 10, 2010.

5. Attached collectively as Exhibit C are true and correct copies of excerpts from the deposition transcripts of James Wilson dated June 29, 2010 and Sandra O'Connor dated July 23, 2010, respectively.

6. Attached as Exhibit D is a true and correct copy of Exhibit 64 (JPMC171817 and attached spreadsheets) from Lisa Shin's deposition dated June 25, 2010.

7. Attached as Exhibit E is a true and correct copy of Fiachra O'Driscoll's Rebuttal Expert Report dated September 30, 2010.

8. Attached as Exhibit F is a true and correct copy of a document bates labeled JPMC158749.

9. Attached as Exhibit G are true and correct copies of a document bates labeled JPMC218225-26.

10. Attached as Exhibit H are true and correct copies of a document bates labeled JPMC138-39.

11. Attached as Exhibit I is a true and correct copy of a document bates labeled JPMC114.

13. Attached as Exhibit J are true and correct copies of a document bates labeled JPMC39-40.

14. Attached as Exhibit K is a true and correct copy of excerpts from the deposition transcript of Sandra O'Connor dated July 23, 2010.

15. Attached as Exhibit L is a true and correct copy of excerpts from the deposition transcript of Andrew Metrick dated November 30, 2010.

17. Attached as Exhibit M is a true and correct copy of excerpts from the deposition transcript of James Wilson dated June 29, 2010.

18. Attached as Exhibit N is a true and correct copy of excerpts from the deposition transcript of Lisa Shin dated June 25, 2010.

19. Attached as Exhibit O is a true and correct copy of a document bates labeled JPMC165-66.

Dated: October 11, 2011

/s/ Peter H. LeVan, Jr.

Peter H. LeVan, Jr.

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